

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN (JACKSON) DIVISION**

D'MONTERRIO GIBSON

PLAINTIFF

v.

CIVIL ACTION NO.: 3:23-CV-00054-DPJ-FKB

**FEDERAL EXPRESS CORPORATION;
CITY OF BROOKHAVEN, MISSISSIPPI;
CHIEF KENNETH COLLINS, in His Individual
and Official Capacities; BRANDON CASE;
and GREGORY CASE**

DEFENDANTS

MOTION TO DISMISS

COME NOW, Defendants City of Brookhaven, Mississippi and Kenneth Collins, in his Individual and Official Capacities, by counsel, and files this, their Motion to Dismiss and in support thereof would show unto this Court as follows:

Plaintiff's Complaint does not state a plausible federal claim against either of the Brookhaven Defendants. It should be immediately dismissed. Additionally, because all the Plaintiff's claims against the Defendants are frivolous, the Defendants should be awarded their attorneys' fees and expenses.

Moreover, this Court cannot, and should not, exercise supplemental jurisdiction over the remaining state law claims pled as they do not arise from a common nucleus fact with the Section 1981 racial discrimination claim against FedEx. Regardless, Plaintiff's state law claims are without merit.

For all of these reasons, dismissal is appropriate.

In support of this Motion to Dismiss, Defendants attach the following:

EXHIBIT A - Memorandum of Authorities;

RESPECTFULLY SUBMITTED this the 20th day of March, 2023.

JACKS | GRIFFITH | LUCIANO, P.A.

By: /s/ **Bethany A. Tarpley**
Bethany A. Tarpley, MS Bar No. 104134
Attorney for Defendants City and Collins

Of Counsel:

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CERTIFICATE OF SERVICE

I, Bethany A. Tarpley, attorney of record for Defendants, do hereby certify that I have this day caused a true and correct copy of the above and foregoing *MOTION TO DISMISS* to be delivered by the ECF Filing System which gave notice to all counsel of record.

DATED this 20th day of March, 2023.

/s/ **Bethany A. Tarpley**
Bethany A. Tarpley